IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6 of 2001

With

SPECIAL CIVIL APPLICATION No. 252 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GOGAN MERAMAN MAKWANA

Versus

COMMISSIONER

Appearance:

1. Special Civil Application No. 6 of 2001
MR KETAN SHAH for MR TUSHAR MEHTA for Petitioner No.1
MR KP RAVAL AGP for Respondent No. 1
MR MD PANDYA for Respondent No. 2

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 05/10/2001

COMMON ORAL JUDGEMENT

1. Rule. Mr. K. P. Raval, learned AGP, appears

and waives service of Rule on behalf of respondent no. 1 and Mr. Pandya, learned Advocate appears and waives service of Rule on behalf of respondent no. 2.

2. The present Special Civil Applications are filed by the petitioners for the relief/s to the effect that the order dated 29th September, 1999 produced at Annexure-A and show cause notice dated 20th December, 2000, produced at Annexure-B in Special Civil Application No. 6 of 2001, and orders dated 3rd January, 2001 and 29th December, 2000, produced at Annexure-A and M respectively in Special Civil Application No. 252 of 2001, be quashed and set aside.

3. The ground on which the present petitions are filed seeking the aforesaid relief, is that the authority issuing the order dated 29th September, 1999 and show cause notice dated 20th December, 2000, Annexure-A and B respectively in Special Civil Application No. 6 of 2001, and orders dated 3rd January, 2001 and 29th December, 2000, Annexure-A and M respectively in Special Civil Application No. 252 of 2001, based on the said orders, shall take into consideration a judgement of the Division Bench of this Court in Letters Patent Appeal No. 1670/1999 in Special Civil Application No. 4593 of 1999 and allied matters dated 31st August, 2000.

4. Mr. Ketan Shah, learned Advocate appearing for the petitioners, submitted that the said decision of the Division Bench of this Court is required to be taken into consideration by the authorities to see that substantial justice is done. He submitted that the petitioners may be given an opportunity to point out the said decision to the authorities and the authorities be directed to reconsider the case of the petitioners in light of the said decision and decide afresh.

5. Mr. Ketan Shah, learned Advocate for the petitioners, submitted that the certificate, which is sought to be cancelled by an order dated 29th September, 1999 (Special Civil Application No. 6 of 2001) was issued by the District Social Welfare Officer, Jamnagar. Under the decision of this Court, such certificate is required to be issued by the Mamlatdar with the help of the Committee consisting of the Mamlatdar, Range Forest Officer and other officers. Mr. Shah submitted that by virtue of the decision of this Court, such Committee is required to take into consideration the relevant material, which petitioners may be permitted to produce before the said committee.

6. Taking into consideration the contents of the petitions, submissions of Mr. Ketan Shah, learned Advocate for the petitioners, and the judgement of this Court, it is deemed fit, as it will be in the interest of justice, if the petitioners are given an opportunity to approach the Mamlatdar and the Committee to present their cases along with relevant material on the basis of which the Committee is to decide as to whether a certificate is to be issued or not in favour of the petitioners.

7. Until the Committee decides regarding issuance of the certificate in favour of the petitioners, it will be proper if the Gujarat Electricity Board does not proceed further with the notice dated 20th December, 2000 issued to the petitioner produced at Annexure-B in Special Civil Application No. 6 of 2001.

8. In the result, the order at Annexure-A in Special Civil Application No. 6 of 2001 and orders at Annexure-A and M in Special Civil Application No. 252 of 2001 are hereby quashed and set aide. The petitioners are directed to make a representation to the Committee consisting of the Mamlatdar, Range Forest Officer and other officers within 3 weeks from the date of receipt of a copy of this order. The Committee shall decide the representation of the petitioners within 6 weeks thereafter. The committee shall communicate its decision to the petitioners and the Gujarat Electricity Board by a registered Post A.D. letter. In the meantime, the Gujarat Electricity Board shall not act upon the show cause notice dated 20th December, 2000 produced at Annexure-B in Special Civil Application No. 6 of 2001 and also for a further period of 15 days from the date of receipt of the decision of the committee. After the decision of the Committee is communicated to the Gujarat Electricity Board, it will be open to Gujarat Electricity Board to take action in accordance with law in case the committee decides not to issue a certificate in favour of the petitioners.

So far as Special Civil Application No. 252 of 2001 is concerned, the Gujarat Electricity Board shall not take any action against the petitioner on the basis that the petitioner has not produced caste certificate in the name of the petitioner till the decision of the Committee is received in this regard and for a further period of 15 days from the date of receipt of the decision of the Committee.

The petitions are accordingly allowed. "Rules"

issued in both the Special Civil Applications are made absolute to the aforesaid extent only. No order as to costs. Direct service is permitted.

(Ravi R. Tripathi, J.)
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